

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20993

Application 30232 of Mary C. Skaggs

c/o James C. Hanson, 444 North Third Street, Suite 400, Sacramento, CA 95814

filed on March 8, 1993, has been approved by the State Water Resources Control Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source	Tributary to
(1) Putah Creek	Lake Berryessa
(2) Crazy Creek	Putah Creek
(5)(6) Unnamed Streams	Crazy Creek thence Putah Creek

2. Location of point of diversion

By California Coordinate System in Zone 2	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
(1) Point of Diversion To Offstream Storage in Reservoirs 2, 5, and 6 North 403,250 East 1,827,600	SE¼ of SW¼	26	11N	7W	MD
Points of Diversion to Storage and Rediversion:					
(2) North 404,550 East 1, 830,850	NE¼ of SE¼	26	11N	7W	MD
(5) North 403,350 East 1,829,500	SW¼ of SE¼	26	11N	7W	MD
(6) North 402,480 East 1,830, 400	SE¼ of SE¼	26	11N	7W	MD

County of Lake

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Stockwatering Recreational Fire Protection	Reservoir No.2 SW¼ of NW¼	25	11N	7W	MD	
	SE¼ of NE¼	26	11N	7W	MD	
	NE¼ of SE¼	26	11N	7W	MD	
	Reservoir No. 5 SW¼ of SE¼	26	11N	7W	MD	
	Reservoir No. 6 NE¼ of NE¼	35	11N	7W	MD	
Irrigation	NW¼ of SW¼	25	11N	7W	MD	20
	NE¼ of SW¼	25	11N	7W	MD	15
	SE¼ of SW¼	25	11N	7W	MD	10
	SW¼ of SW¼	25	11N	7W	MD	30
	NW¼ of SE¼	26	11N	7W	MD	10
	NE¼ of SE¼	26	11N	7W	MD	10
	NW¼ of NW¼	36	11N	7W	MD	2
	NE¼ of NW¼	36	11N	7W	MD	3
					Total	100

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of **245** acre-feet per annum to be collected from **December 1** of each year to **April 15** of the succeeding year as follows: **147** acre-feet per annum in Reservoir No. 2, **49** acre-feet per annum in Reservoir No. 5, and **49** acre-feet per annum in Reservoir No. 6..

(0000005D)

6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(0000005I)

7. The maximum rate of diversion to offstream storage shall not exceed **5 cubic feet per second**.

(0000005J)

8. Complete application of the water to the authorized use shall be made by **December 31, 2009**.

(0000009)

9. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing.

(0000042)

10. Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipes, or alternative facility, to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050043AP)

11. If the storage dam will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction under this permit shall not be commenced until the Department has approved the plans and specifications for the dam.

(0360048)

12. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

(0120050)

13. For the protection of fish and wildlife, the permittee shall, during the period from December 1 through April 15, bypass a minimum of 100 cubic feet per second in Putah Creek. The total stream flow shall be bypassed whenever it is less than the designated amount.

For purposes of measuring the flow in Putah Creek for compliance with the bypass requirement, the permittee shall install a staff gage at or near its point of diversion on Putah Creek. The permittee shall calibrate the staff gage during two consecutive seasons. If the second calibration is found to be in reasonable agreement with the first calibration, subsequent calibration frequency shall be performed every other year thereafter.

(0140060)
(0100400)

14. No water shall be diverted under this permit at POD 1 until the Permittee has installed a fish screen at POD 1, which meets with the approval of the DFG. Permittee shall maintain the screen in good working order, acceptable to DFG, so long as diversions are being made from POD 1.

(0360900)

15. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the DFG and/or the DFG has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee.

(0000063)

16. The Permittee shall conduct a survey which quantifies the number and size of oak, conifer, and other trees that will be removed, and identifies the extent and value of any riparian habitat which will be affected. Permittee shall further prepare a mitigation plan aimed at replacing lost oak/woodland, conifer, and riparian habitat. Said plan shall include specific measures to be taken to offset impacts to these habitats, and shall show the location, number, and species of oaks and other trees to be planted. No construction work shall commence until the DFG has reviewed and approved the mitigation plan. (0390500)

17. The Permittee shall prepare an erosion control plan aimed at preventing sedimentation of both the Crazy Creek and Putah Creek drainages. No construction work shall commence until the plan has been reviewed and approved by the DFG. The plan shall include the following:

Designated buffer zones along all significant drainage channels, excepting therefrom areas which will be inundated by reservoirs. Discing, removal of existing vegetation, and other disruptive work will not be allowed within these buffer zones unless such activity can be shown to improve erosion protection.

Erosion control measures for all exposed areas susceptible to significant erosion. Seeding, mulching, straw, slope contouring, and other erosion control measures shall be included in the plan to the extent that such measures are necessary.

Erosion control for access roads. Water bars, culverts, and other erosion control measures shall be identified for use on all access roads associated with the project. (0390500)

18. Permittee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

- (1) Permittee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this permit for noncompliance with the terms of the Agreement.
- (2) Diversion of water under this permit shall be subject to the watermaster appointed by the court to enforce the terms of the Agreement. The permittee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.
- (3) Within one year of the construction of the reservoir covered by this permit, permittee shall have the capacity of the reservoir surveyed by a registered civil engineer or licensed surveyor. A copy of the survey and area-capacity curve shall be provided to the watermaster and the SWRCB.
- (4) Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the watermaster and the SWRCB, for the purpose of determining water levels in the reservoir. Permittee shall record the staff gage readings on October 1 of each year and April 30 of the succeeding year, or such other period as may be specified by the watermaster with written notice to the permittee.
- (5) Permittee shall report to the watermaster annually, all diversions under this permit by September 1 of each year on forms approved by the watermaster.

(6) Permittee shall allow the watermaster reasonable access to the project covered by this permit to inspect measuring equipment and to observe compliance with these permit terms and conditions, upon 48-hour prior notice and upon such reasonable conditions as permittee may prescribe.

(7) Permittee is hereby put on notice that there may be years when diversion of water under this permit will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this permit, and that releases of stored water may be required.

(8) Permittee is hereby put on notice that the waiver of priority granted by Reclamation and Solano County Water Agency provides that in the event Allowable Depletion is exceeded in any year, water diverted to storage that year shall be released and/or direct diversions shall be curtailed during the ensuing season(s), when applicable, to the extent necessary to bring the Allowable Depletion into compliance, in the following order:

a. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights in excess of 120 percent of that water right holder's previous five-year average, in reverse order of water right priority.

b. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights above the previous five-year average diversion, in reverse order of priority.

c. All remaining water directly diverted and/or diverted to storage that year by holders of Post-Reservation Water Rights in reverse order of priority.

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, permittee shall have three years, starting in the next Accumulation Season, to make up or repay permittee's excess diversions; or (2) does not reach 640,000 acre-feet of storage as of May 1, permittee shall have one year, starting in the next Accumulation Season, to make up or repay permittee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, permittee shall be excused from any further obligation for repayment of the overage.

(10) Permittee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.

(11) Permittee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the permit.

(12) Permittee is hereby put on notice of permittee's right, upon reasonable prior notice, to inspect and to copy, at permittee's own expense, all records and reports of the watermaster.

(13) Solely for purposes of administering Post-Reservation Depletion, the average annual depletion assigned to this project is 245 acre-feet per annum as calculated by the watermaster using information described in Exhibit C of the Condition 12 Settlement Agreement. Permittee shall notify the watermaster of any change in crop type, acreage irrigated, and irrigation method. Any change in water usage which results in an increase in average annual depletion of more than 10 percent for non-

weather related reasons, as determined by the watermaster, will require filing a new water right application. (Agreement pp. 13-15, Exhibit E)

(0000024)

19. Inclusion in the permit of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)

20. The State Water Resources Control Board (SWRCB) shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this permit to delete, revise, amend, or adopt new terms or conditions to: (1) implement the March 10, 1995, Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

(0000012)

21. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0090900)

22. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

23. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued.

(0000010)

24. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000010)

25. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

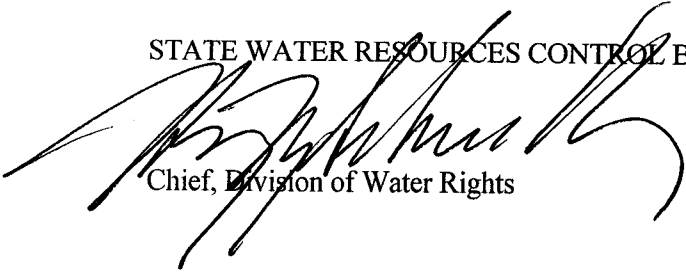
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **APR 16 1999**

STATE WATER RESOURCES CONTROL BOARD



Chief, Division of Water Rights